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Attorney for Debtor

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re:

Travis Wayne Kerns and
Tonya Sue Kerns,

Debtor.

Case No. 17-60930-tmr13

NOTICE AND MOTION FOR
ORDER APPROVING SALE OF
REAL PROPERTY

NOTICE IS NOW GIVEN that unless an interested party files a written objection to the application listed below, setting forth the specific grounds for such objection, by August 25, 2017, which is 21 days after the filing date of this notice, OR AT AN EARLIER TIME AS ORDERED BY THE COURT, with the clerk of the Court, mailed to 405 East 8th Ave #2600, Eugene Oregon 97401, the Court may, if a proposed order is submitted to it (with a verified statement that no objections were filed), sign such order without further notice or a hearing. You may contact the party giving notice if you have any further questions.

COMES NOW Travis Wayne Kerns and Tonya Sue Kerns ("Debtor"), by undersigned counsel and notices Debtor's intent to sell real property under 11 U.S.C. §§ 363 & 1303.

Attached to this motion is a proposed order as **Exhibit A**. This motion is supported by the following points in compliance with LBF 363.

1. Debtor intends to sell a commercial building commonly know as 1650 Highway 99, Eugene, Oregon. Debtor inherited a 12.75% interest in this property from his father. The property was used by Debtor's Father and Kevin Kerns for their business. Debtor has no interest in this business. Debtor and his siblings agreed to sell their interests to Kevin Kerns, who

continues to operate the business. There is a mortgage for \$116,000.

2. **The buyer is related to Debtor.** Buyer is Debtor's brother. Buyer currently owns 61.75% of the property. He wishes to acquire Debtor's 12.75% inherited interest. Buyer has historically used the property to operate his business.

3. There are **no other agreements**. Price was negotiated based on a fair market value of \$79,050 at the time Debtor inherited his interest.

4. Siuslaw Bank has a mortgage of \$116,000. There are also several judgment liens that attached to the property after the 4 siblings inherited. Portfolio Recovery has a judgment lien against Debtor of \$3,439.27 plus interest. **This lien will be paid from escrow and net proceeds will be paid into Debtor's Plan.**

5. **No releases, waivers or other economic benefit are contemplated.**

6. There were no offers on the property. The sale is a private sale of a 12.75% minority interest to the majority owner.

9. The parties seek to close on the sale as soon as possible to meet the terms of a pending refinance by Buyer.

10. There are no deadlines and contingencies for the parties to satisfy to close this transactions.

11. **No creditor to Debtor was offered the opportunity to buy the property.**

12. There are no other agreements.

13. There are **no avoidance actions** related to this sale. There are no findings requested with regard to successor liability.

16. FRBP 6004(h), which imposes a 14 day stay upon the entry of an order authorizing such sale after the notice period, is requested to be waived based on the need to close and fund the loan timely.

17. There was no solicitation process. This notice is being sent to all of Debtor's creditors and other interested parties. There was no effort to sell the property through an open solicitation process because Debtor only owns 12.75%.

DEBTOR IS requesting approval under the business judgment standard. He has a 12.75% interest. The property can not be physically subdivided. All other owners agree to sell to Kevin Kerns (61.75% owner) so he can consolidate his ownership and operate his business from this property. There is no market for a 12.75% interest in the property.

Dated this 4th day of August, 2017.

BEHRENDT, CARUSONE & COVINGTON, P.C.

By /s/ Judson M. Carusone
Judson M. Carusone, #972234
Attorney for Debtor-in-Possession